

A. G. Contract No. KR94 2184TRN
ECS File: JPA 94-149
Project: Engineering Survey Account
Section: Flagstaff

INTERGOVERNMENTAL AGREEMENT

BETWEEN

THE STATE OF ARIZONA

AND

THE CITY OF FLAGSTAFF

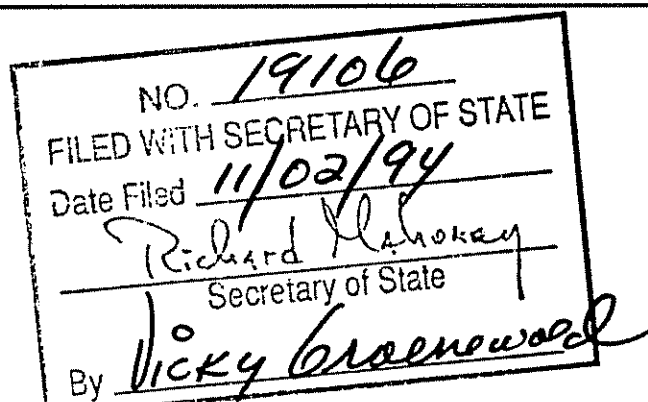
THIS AGREEMENT is entered into 2 November, 1994, pursuant to Arizona Revised Statutes, Sections 11-951 through 11-954, as amended, between the STATE OF ARIZONA, acting by and through its DEPARTMENT OF TRANSPORTATION (the "State") and the CITY OF FLAGSTAFF, acting by and through its MAYOR and CITY COUNCIL ("the "City").

I. RECITALS

1. The State is empowered by Arizona Revised Statutes Section 28-108 to enter into this agreement and has by resolution, a copy of which is attached hereto and made a part hereof, resolved to enter into this agreement and has delegated to the undersigned the authority to execute this agreement on behalf of the State.

2. The City is empowered by Arizona Revised Statutes Section 48-572 to enter into this agreement and has by resolution, a copy of which is attached hereto and made a part hereof, resolved to enter into this agreement and has authorized the undersigned to execute this agreement on behalf of the City.

3. The City requests the State, as agent for the City, to perform certain work and prepare certain documents required by the Federal Highway Administration to qualify certain highway, bridge and railroad grade crossing projects for and to receive Federal funds. Such future work, consisting of, but not specifically limited to, the review and approval of the City prepared environmental documents, the preparation of the analysis requirements for documentation of environmental categorical exclusion determinations; review of reports, design plans, maps, and specifications; geologic materials testing and analysis; right-of-way related activities (when specifically authorized by, for and on behalf of the City, and at no cost to the State) and such other related tasks essential to the achievement of the aforementioned objectives.



4. The only interest of the State in performing the work embraced herein is in the acquisition of federal funds for the use and benefit of the City by reason of federal law and regulations under which funds for the projects are authorized to be expended, and is acting as agent for the City.

5. The estimated cost of the work shall be determined by procedures established in Local Government Engineer's Bulletin No. 91-3 dated 13 November 1991, which is attached hereto and made a part hereof, which funds the City shall transmit to and deposit with the State for the purpose of funding the cost of the work performed by the State. The minimum estimated cost of work for any project is \$5000.00.

THEREFORE, in consideration of the mutual agreements expressed herein, it is agreed as follows:

II. SCOPE OF WORK

1. The State will:

a. Subsequent to the deposit of sufficient funds by the City, begin performance of the work that is required by the Federal Highway Administration to bring the projects to the construction stage.

b. Furnish all labor, materials, and equipment necessary to complete the work embraced herein when such resources are available.

c. Provide the City a periodic statement of account identifying the projects for which work has been performed, the type and amount of expenditures, and the account balance. No statement will be provided if there is no activity on the account.

2. The City will:

a. Provide the State with individual project requests to perform the necessary work on a project by project basis.

b. Deposit with the State sufficient funds for the cost of the work, all or any part of which will be used by the State to fund the cost of performing the work.

c. Solely bear the cost of the work embraced herein without State or Federal funds.

d. Insure that sufficient City funds are available for the State to accomplish the work contemplated, and deposit with the State additional funds as may be required to complete the work. Such additional deposits will be made upon request of the State when the funds in the account have been depleted, or when the account balance is so low that funds for the cost of anticipated or ongoing work are not expected to be sufficient to cover the State's expenditures.

III. MISCELLANEOUS PROVISIONS

1. The State will not be obligated to perform the work contemplated herein or incur expenditures associated with such work when labor, materials or equipment are not available to the State.

2. The State assumes no financial obligation or liability under this agreement whatsoever. The City assumes full responsibility for the adequacy and accuracy of environmental assessments and reports, the design, plans, specifications, reports, the engineering and geological testing in connection therewith and the construction of the improvements contemplated, cost over-runs and construction claims. It is understood and agreed that the State's participation is confined solely to securing federal aid; that any damages arising from carrying out, in any respect, the terms of this agreement or any modification thereof, shall be solely the liability of the City and that the City hereby agrees to save and hold harmless and indemnify from loss the State, any of its departments, agencies, officers or employees from any and all cost and/or damage incurred by any of the above and from any other damage to any person or property whatsoever, which is caused by any activity, condition, or event arising out of the performance or nonperformance of any provisions of this agreement by the State, any of its departments, agencies, officers and employees, or the City, any of its agents, officers and employees, or any of its independent contractors. Costs incurred by the State, any of its departments, agencies, officers or employees shall include in the event of any action, court costs, expenses of litigation and attorneys' fees.

3. The cost of any design, construction or construction engineering work covered by this Agreement is to be borne by the City, but should some unforeseen condition or circumstance increase the cost of the work to be performed by the State in excess of the amount shown in the recital, the State shall not be obligated to incur any expenditure in excess of the City's deposit.

4. This agreement shall remain in force and effect for a period of five years from the effective date, and will be automatically renewed for successive periods of five years, unless sooner terminated by either the City or the State, or other competent authority.

5. This agreement shall become effective upon filing with the Secretary of State.

6. This agreement shall be cancelled in accordance with Arizona Revised Statutes Section 38-511.

7. The provisions of Arizona Revised Statutes Section 35-214 are applicable to this agreement.

8. In the event of any controversy which may arise out of this agreement, the parties hereto agree to abide by required arbitration as is set forth for public works contracts in Arizona Revised Statutes Section 12-1518.

9. All notices or demands upon any party to this agreement shall be in writing and shall be delivered in person or sent by mail addressed as follows:

Department of Transportation
Joint Project Administration
205 S. 17th Avenue - 616E
Phoenix, Arizona 85007

City of Flagstaff
City Manager
211 West Aspen Avenue
Flagstaff, AZ 86001

9. Attached hereto and incorporated herein is the written determination of each party's legal counsel that the parties are authorized under the laws of this state to enter into this agreement and that the agreement is in proper form.

IN WITNESS WHEREOF, the parties have executed this agreement the day and year first above written.

CITY OF FLAGSTAFF

STATE OF ARIZONA

Department of Transportation

By Rita Johnson
RITA JOHNSON
Vice-Mayor

By Peter L. Enno
PETER L. ENO
Contract Administrator

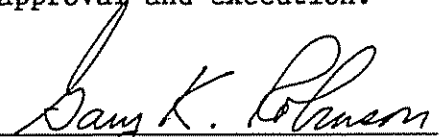
ATTEST:

By Linda Butler
LINDA BUTLER
City Clerk

RESOLUTION

BE IT RESOLVED on this 31st day of August 1994, that I, the undersigned LARRY S. BONINE, as Director of the Arizona Department of Transportation, have determined that it is in the best interests of the State of Arizona that the Department of Transportation, acting by and through the Highways Division, to enter into an agreement with the City of Flagstaff for the purpose of defining responsibilities for the establishment of a preliminary engineering survey account.

Therefore, authorization is hereby granted to draft said agreement which, upon completion, shall be submitted to the Contract Administrator for approval and execution.


Pr. LARRY S. BONINE
Director

RESOLUTION NO. 1957

A RESOLUTION APPROVING THE TERMS OF AN INTERGOVERNMENTAL AGREEMENT BETWEEN THE ARIZONA DEPARTMENT OF TRANSPORTATION AND THE CITY OF FLAGSTAFF FOR THE DESIGN PHASE OF THE ROUTE 66 STREETScape PROJECT, AND AUTHORIZING THE CITY'S ENTRY INTO THE AGREEMENT.

WHEREAS, the Mayor and Council have reviewed the terms of the proposed Intergovernmental Agreement between the State of Arizona and the City of Flagstaff whereunder the City would request the State to perform work and to prepare documents required by the Federal Highway Administration to qualify a highway, bridge and railroad grade crossing project to receive federal funds; and has found the terms and conditions thereof to be of benefit to the City of Flagstaff; and

WHEREAS, the Agreement shall remain in force and effect for a period of five years from its effective date, and will be automatically renewed for successive periods of five years unless sooner terminated as provided therein; and

WHEREAS, the City will become obligated under the terms of the Agreement to advance costs to the State in the minimum amount of \$5,000 for the performance of work thereunder;

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF FLAGSTAFF AS FOLLOWS:

SECTION 1: The terms and conditions of the proposed Intergovernmental Agreement are approved and the Mayor is authorized and directed to execute the Agreement on behalf of the City.

SECTION 2: The expenditure of the minimum estimated cost of \$5,000 for the work to be done under the Agreement by the State is authorized and approved. Any additions to that sum will be submitted for approval as they may from time to time arise.

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APPROVAL OF THE FLAGSTAFF CITY ATTORNEY

I have reviewed the above referenced proposed intergovernmental agreement, between the DEPARTMENT OF TRANSPORTATION, HIGHWAYS DIVISION and the CITY OF FLAGSTAFF and declare this agreement to be in proper form and within the powers and authority granted to the City under the laws of the State of Arizona.

DATED this 19th day of October, 1994.

By [Signature] Asst City Atty
City Attorney



STATE OF ARIZONA

OFFICE OF THE ATTORNEY GENERAL

GRANT WOODS
ATTORNEY GENERAL

1275 WEST WASHINGTON, PHOENIX 85007-2926

MAIN PHONE : 542-5025
TELECOPIER : 542-4085


INTERGOVERNMENTAL AGREEMENT
DETERMINATION

A. G. Contract No. KR94-2184-TRN, an agreement between public agencies, has been reviewed pursuant to A.R.S. §11-952, as amended, by the undersigned Assistant Attorney General who has determined that it is in the proper form and is within the powers and authority granted to the State of Arizona.

No opinion is expressed as to the authority of the remaining parties, other than the State or its agencies, to enter into said agreement.

DATED this 27th day of October, 1994.

GRANT WOODS
Attorney General



JAMES R. REDPATH
Assistant Attorney General
Transportation Section

JRR:lsr
8661G